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Captivated by fear

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Chapter One

Prisoner Radicalization and Terrorism Detention Policy

Since 9/11, the threat of Islamist terrorism has been at the forefront of public and political debate. At the time of finalizing this book, November 2014, the international media are filled with stories of young Muslims in Europe travelling to Syria to join the ranks of IS, a violent extremist movement aiming to establish an Islamic caliphate. The stories are about young Muslims, often born and raised in the West, radicalized to the point that they are willing to risk their own lives and take that of others in pursuit of the jihadist cause. In some cases, we hear of young Muslims dying in battle at the front. In others, we hear that individuals have left the conflict zone and are returning to their homes in the West. Almost invariably, the stories contain anxious warnings of the violent extremist threat coming to the West, as many young Muslims return home skilled and prepared to commit terrorist attacks against Western societies.

Throughout the West these threats triggered panicky responses by officials, with several countries arresting substantial numbers of individuals in relation to IS and the conflict in Syria. In the UK, more than 200 terror-related arrests were made in the first ten months of 2014 (Dodd, 2014), and the government warned that it intended to charge returning fighters with high treason (Groves & Greenwood, 2014). Other countries, such as Spain (Goodman, 2014), Belgium (*Trouw*, 12 February 2014), and the Netherlands (Groen, 2014), similarly set out to arrest returning jihadists or people suspected of planning to travel to Syria to join the jihad or of encouraging others to do so.

The rapid increase in the numbers of arrests and incarcerations of terror-related suspects raises an important question: where and how should these inmates be detained (e.g., Merola & Hovak,

2012)? After all, prisoners are often attributed prominent roles in the emergence and expansion of violent extremist movements and it is often said that several extremist ideologies originated behind bars. If radicalized prisoners are subsumed into the larger inmate population, might there not be a risk that they spend their time in prison planning terrorism attacks or recruiting fellow inmates? And if this is the case, and thus if detaining violent extremist offenders as 'regular' prisoners may convey a risk of further radicalization, then which detention strategies may offer an alternative way to manage this category of prisoners? Concerns that prisons can become incubators of violent extremism have pushed the issue of terrorism detention to the forefront of the international political agenda and have urged policy makers to craft correctional policy responses geared to minimize the risk of violent extremism among inmates.

Fears of prisoner radicalization are not new but have been widespread since the terrorist attacks of 9/11, when the subsequent Global War on Terror internationally led to an influx of terrorism-related suspects into the correctional system. Over the past decade, countries around the world have responded with urgency to the potential threat of prisoner radicalization and have implemented a range of measures to contain the spread of extremist ideology in prisons. At first glance, two notable features of these policies stand out. First, they generally betray a 'security first' approach which is geared toward achieving instant control and risk management, often at the expense of prisoner rights or longer term considerations such as reintegration. Second, it seems that nobody knows the best way to deal with terrorism offenders in prison: detention strategies differ substantially across countries. Whereas some countries isolate violent extremists from other prisoners, others disperse them across different prisons, and yet others primarily seek to 'de-radicalize' them and to persuade them to leave terrorism behind (Neumann, 2010).

In the Netherlands, the government has opted for a solution that concentrates prisoners suspected or convicted of terrorism related charges into separate 'terrorism prisons', where they are segregated from the mainstream inmate community, closely monitored, and subjected to restrictive security regimes (Veldhuis, Gordijn, Lindenberg & Veenstra, 2011, see also Veldhuis & Lindenberg, 2012a). In concentrating terrorism prisoners in specialized prison units the Dutch approach matches famous examples like Guantanamo Bay and Baghdad's Abu Ghraib prison and less well known examples like the U.S. federal prison system's 'Communications Management Units' (CMUs; U.S. Department of Justice, 2010; see also Beata, 2012; Hamm, 2012), which were introduced to detain prisoners suspected of terrorism connections. A number of other countries, such as Saudi Arabia (Boucek, 2008), the Philippines (Jones, 2014; Jones & Morales,

2012), and Australia (Brown, 2008; Carlton, 2008) similarly opted for detention strategies that house violent extremists together in high security facilities, away from other kinds of offenders.

Although fairly popular, it is not immediately clear how such concentration models are supposed to help. After all, it stands to reason that housing already radicalized prisoners together with like-minded peers might create opportunities for them to form close-knit groups and plot terrorism activities together, and that harsh confinement conditions may arouse anger and frustration and spur intensification of ideological commitment. Moreover, it is feasible that detainees in specialized terrorism prisons become heroes in the eyes of their followers, thereby creating a stronger support base for violent extremist activities. Alternatively, they may also be labeled as terrorists and rejected as a consequence by the general public, which may cause reintegration problems after release and increase the risk of recidivism.

In fact, previous experiences with concentration strategies for violent extremist prisoners, particularly in Ireland and Germany during the 1970s and 1980s, demonstrated that such policies ignited a range of undesired side effects like intense resistance among the prisoners, further mobilization of support for the inmates' political objectives, and increased violence among their support community. Likewise the imprisonment and confinement conditions of incarcerated members are central in the narratives of many violent extremist movements, such as the Muslim Brotherhood (Kepel, 2002), the Irish Republican Army (McEvoy, 2001) and, more recently, Islamic State (McCoy, 2014), and appear to have been driving factors in the establishment of a support base for these movements.

Why concentrate and isolate such prisoners if the evidence, albeit sparse, as well as logical reasoning suggest that it is counterproductive? To answer this question we would have to know how such detention policies come about and how they are implemented, what the reasoning is behind choosing a concentration strategy, what objectives it is supposed to achieve and how. At the moment, little is known about these processes and thus it is important to take the time to thoroughly scrutinize the different phases of the policy processes by which these interventions operate. Were these policies based on sound rationale or dictated by time pressure, fear and other short-term considerations?

The Dutch policy offers a good case to study such processes because, at least with regard to the chosen method, it is comparable to other prominent countries like the US and Australia, but additionally it is maybe the country in which the concentration policy has been implemented

most consequentially (see e.g., Neumann, 2010). In other words, it is likely to be the ‘purest’ case of such a policy. The aim of this book is thus first to reconstruct the Dutch case in some detail and second to evaluate the Dutch case against available evidence, in order to judge to what degree the concentration and isolation policy is a rational policy or, alternatively, a suboptimal response to pressure, fear, and threat.

The Present Study

In this book, I set out to reconstruct and then evaluate the policy process behind the terrorism detention strategy of the Netherlands, with the overarching ambition to assess whether concentration strategies are rooted in realistic assessments and valid assumptions (and can thus be expected to produce the desired results) or whether they are more likely to be the product of disruptive factors in the policy context (and may thus be suboptimal and produce undesired or even counterproductive results).¹

The Netherlands provides a relevant case to examine terrorism detention policies. First, as with other countries in Europe, after 9/11 the Netherlands experienced a heightened threat of Islamist violent extremism. The threat materialized in a lethal attack and several foiled plots, which triggered political and public concerns of radicalization and violent extremism among Muslim communities (e.g., Bakker, 2006; Veldhuis & Bakker, 2009). In November 2004, filmmaker and Islam critic Theo van Gogh was brutally assassinated on the streets of Amsterdam. Van Gogh’s murderer, who was later arrested after being wounded in a shootout with the police, turned out to be a young Muslim of Moroccan descent, who had been born and raised in the Netherlands. In the months following the assassination, the Islamist threat accumulated in a series of terrorism-related incarcerations and court cases (e.g., the Hofstadgroup case and the Piranha case; see for discussions Schuurman, Eikman & Bakker, 2014; TTSRL, 2008), which were closely scrutinized by the media. The arrests pushed the issue of terrorism detention to the forefront of the national political and public agenda, and politicians and experts expressed concern that the presence of potentially radicalized Muslims in prisons could cause a spread of violent extremist beliefs among the inmate population. One of the questions that I seek to answer in this study is how,

¹ In 2010, the Dutch government commissioned an evaluation of its terrorism detention strategy. The results of the evaluation were published in 2011 (Veldhuis, Gordijn, Lindenberg & Veenstra, 2011). In part, the following chapters are based on and build from those findings.

given these circumstances, the relevant stakeholders interpreted the problem and how they weighed the available policy alternatives.

Second, the Netherlands is one of several countries that responded to the perceived risk of prison radicalization by pursuing a concentration strategy, which selects prisoners charged with terrorism offenses for detention in specialized high security ‘terrorism wings’. In the West, the Netherlands is probably the country that is most consistent in its implementation of the concentration model (Neumann, 2010). The concentration strategy denotes a drastic deviation from traditional prison policies in the Netherlands, which select prisoners for specific regime types on the basis of personal risk assessments rather than offense type (RSJ, 2006a). When the objective is to obtain as much information as possible about the decisions of policy makers, cases where drastic policy decisions were made may be more informative than cases where policy continued as ‘business as usual’. Therefore, I aim to examine the dynamics of the decision making process that led to the introduction of the concentration model, to understand the underlying processes and assumptions on which the policy is based and to assess whether it can logically be expected to produce the desired outcomes.

A Realist Approach to Policy Evaluation

The realist approach (Pawson, 2006; Pawson & Tilley, 1997) offers a useful framework for this kind of policy evaluation and will also guide the research presented in this book. The realist approach belongs to a broader category of evaluation paradigms that interprets policies and programs as reflections of underlying theories (called ‘program theories’) about (how to change) human behavior (e.g., Bickman, 1987; Brousselle & Champagne, 2011; Chen, 1990; Rossi, Freeman & Lipsey, 1999; Sanderson, 2002; Weiss, 1995). Often, the rationale behind policies is unrecognized and poorly articulated. The realist approach therefore recommends explicating the underlying ideas and assumptions about how policy is supposed to work and then evaluating these ideas against the available evidence (e.g., Pawson, Greenhalgh, Harvey & Walshe, 2005). In some cases, stakeholders’ ideas about policy functioning and outcomes may be correct. More often, however, they may be incomplete or flawed, so that the policy may produce unexpected outcomes. An important first step in policy analysis is thus to evaluate whether the underlying ideas about how the policy should function are valid or not (Pawson & Tilley, 1997).

The realist approach is rooted in the appreciation that policy interventions can produce different outcomes under different circumstances. From a realist perspective, the question is thus not

what works or *does this program work*, but rather, *what works for whom in what circumstances and in what respects, and how?* (Pawson & Tilley, 1997). Consequentially, it recommends policy reviewers to reconstruct stakeholders' ideas about the underlying mechanism (M) whereby an intervention is supposed to produce the intended outcomes (O), and about the conditions (C) under which this mechanism is expected to be triggered. For example, stakeholders may believe that family visits may reduce inmate misconduct (O) by enhancing inmates' coping skills and a sense of well-being (M), but only under the condition that family relationships are supportive and not a source of conflict or stress (C). A comprehensive analysis thus requires explicating stakeholders' ideas and assumptions about CMO configurations and then testing these configurations against theoretical and empirical observation (Pawson & Tilley, 1997).

Departing from the realist approach I will present an evaluation study of terrorism detention policy, with a particular focus on concentration strategies for terrorism offenders. The research presented here reflects a multidisciplinary approach that draws upon theoretical and empirical insights from public administration research, criminology, sociology, and social psychology and relies on both quantitative and qualitative research techniques. Foremost, I aim to enhance our current understanding of the processes whereby counterterrorism policies in general and terrorism detention policies in particular are created and implemented, and to shine light on the ways in which such policies may be affected by the societal and institutional context under which they are produced.

Whereas evaluation studies often focus on examining the impact of policies, I will devote much attention to the underlying decision making processes. The benefits of such an approach are in its ability to explain not only why a policy produce certain outcomes, but also which processes and distortions influenced how the policy was developed and how it is implemented. This way, this book aspires to provide a launch pad for future systematic and comprehensive research efforts in this domain. My hope is that in the next few years the field of terrorism studies will produce a body of comparable, detailed evaluation studies of policies implemented around the world. In turn, these works could then be subjected to meta-analyses that seek to distill generalizable lessons about the functioning and outcomes of different correctional counterterrorism strategies. Such studies could be of profound use for policy makers and practitioners tasked with the development and implementation of terrorism detention policies.

Structure of the Book

This book is structured in four parts, which together comprise an in-depth reconstruction and evaluation of a policy of concentrating terrorism offenders in separate prison units.

In Part One (*The Making of Terrorism Detention Policy*) I set out to examine the decision making processes by which concentration policies come about and on which information they are based. To this end, I select the Dutch model as an example of such approaches and subject it to closer scrutiny. Specifically, in Chapter Two I will reconstruct the agenda setting and decision making phases, in order to examine whether the policy is based on realistic assessments or whether it reflects a fear-driven response to threat. In Chapter Three I will then reconstruct the rationale behind concentrating terrorism offenders, to examine how the decision making process may have influenced the policy's design.

Together, these chapters indicate that public and political fears of prisoner radicalization were important drivers behind the decision to concentrate terrorism prisoners in separate terrorism wings rather than integrate them into the mainstream inmate population as regular offenders. In response to fear-induced pressures on the decision making process, policy makers opted for a 'better safe than sorry' approach that is almost solely oriented at minimizing security concerns in the short run. In the remaining parts of the book, I aim to evaluate whether such an approach is based on sound rationale or not.

In Part Two (*Theoretical and Empirical Observations on Prison Radicalization*), I begin by testing the assumptions behind concentrated detention of terrorists against available academic knowledge. In Chapter Four I develop a theoretical model that discusses the conditions under which, and mechanisms whereby, prisoner radicalization seems plausible, in order to assess whether the risk of prisoner radicalization is indeed as serious as is often assumed. In Chapter Five I will then present the findings of an empirical study conducted in prisons in the Netherlands, which was designed to provide insight into the probability that general inmates are open to radicalizing influence from violent extremist offenders.

Together, these chapters suggest that fear-based concentration strategies may be based on exaggerated risk assessments and flawed assumptions about the nature and degree of prisoner radicalization and how it can be countered.

To further assess the validity of the underlying policy assumptions, in Part Three (*Terrorism Detention Policy in Practice*), I evaluate the implementation of fear-based concentration policy. For this I return to the Dutch case and examine how the concentration model is delivered and whether it operates as expected. Whereas Chapter Six provides a detailed reconstruction of the policy's selection procedure and target population, Chapter Seven describes the functioning of security measures and the daily regime.

These chapters reinforce the finding that concentration policies produced under fear-induced pressures seem to be based on flawed rationale and may produce suboptimal outcomes. Taken together, Parts One to Three of the book suggest that concentrating terrorism offenders in separate high security regimes appears to be based on fear-induced assumptions rather than on realistic assessments and sound rationale; in short, it seems to be a panicky response to threat, fear, and external pressures on the policy process rather than the product of rational decision making.

In Part Four (*Captivated by Fear*), I end by exploring the different levels and ways in which external pressures, as a result of threat and fear in the policy context, can influence the policy process behind terrorism detention strategies. In Chapter Eight I conduct an extensive review of the international policy and scholarly debate on prisoner radicalization and examine the possible ways in which institutionalized fears may affect the development and implementation of terrorism detention policies, in ways that may ultimately produce undesired or even counterproductive results.

Part One

The Making of Terrorism Detention Policy: The Terrorism Wing

Introduction to the Dutch Terrorism Detention Strategy

As a first step in examining whether or not terrorism detention policies are based on sound rationale, in Part One I select the Dutch case as an example of policies that detain terrorism offenders separate from the mainstream inmate population and conduct an in-depth examination of the policy process. In doing so I focus particularly on the question how characteristics of the decision making context may have influenced how the relevant stakeholders perceived and responded to the issue of terrorism detention.

Institutional Context

The decision making process behind the Dutch terrorism wing involved a range of stakeholders, representing both policy making and operational actors. To comprehend the bureaucratic and social dynamics of the policy process it is useful to sketch the institutional context in which the policy was developed and implemented. To that end, a brief overview of the roles and responsibilities of the main actors involved follows below:

*Ministry of Justice*². The Ministry of Justice is responsible for crime and justice policy in the Netherlands, and therefore carries responsibility for the governments' (terrorism) detention policy. During the agenda setting and policy preparation phases, the Minister of Justice was the Christian Democrats' (CDA) representative Piet Hein Donner. Donner's successor, Ernst Hirsch

² In 2011, the Ministry of Justice was renamed the Ministry of Security and Justice. In this book, I refer to the Ministry as the Ministry of Justice, which was applicable during the period described in this study (2006 - late 2010).

Ballin, also member of the CDA, served from 22 September 2006 until 14 October 2010. In the decision making process, the Minister of Justice was represented by the responsible Director of Sanction and Prevention Policy, who is tasked with the development and coordination of strategic policy.

National Coordinator for Counterterrorism (NCTb, henceforth Counterterrorism Coordinator)³. The National Coordinator for Counterterrorism (NCTb) was established in June 2005 with the aim to improve cooperation between the actors involved in counterterrorism. To this end the Counterterrorism Coordinator is tasked with the central coordination of counterterrorism efforts in the Netherlands. The Coordinator is responsible for conducting threat analyses, coordinating protection and security measures and providing information on counterterrorism. The Counterterrorism Coordinator played a crucial role in the development and implementation of the terrorism wing; it initiated the concentration strategy for terrorism prisoners and assumed a coordinating and leading role in the decision making process.

General Intelligence and Security Service (AIVD, henceforth Intelligence Service). The AIVD is responsible for national security by the timely identification of threats, political developments, and risks which are not immediately visible. To this end the Intelligence Service conducts national and international investigations and, where necessary, shares specific knowledge and information enabling relevant actors to take appropriate measures (AIVD, 2006). In the decision making process of the terrorism wing, the Intelligence Service played an advisory role. On the request of the Counterterrorism Coordinator, the Intelligence Service produced a memo that discussed anticipated advantages and disadvantages of concentration models for terrorists. Based in part on this memo, the Counterterrorism Coordinator advised the Minister of Justice to pursue a concentration strategy for the management of terrorism prisoners.

Custodial Institutions Agency (DJI, henceforth Prison Service). The Custodial Institutions Agency (DJI) is the Ministry of Justice's branch responsible for carrying out correctional sanctions. The national custodial institutions are controlled by two sectors within DJI: the Correctional Institutions for Juvenile Offenders sector and the Prison Service sector, which is responsible for the administration of sentences and measures for adult detainees and is by far

³ Since 2012, the NCTb is known as the National Coordinator of Terrorism and Security (NCTv). In this book I will use the acronym that applied between 2006 and 2010, NCTb, and will use the terms NCTb and Counterterrorism Coordinator interchangeably.

the largest division of DJI (DJI, 2009). As such, the Prison Service carries responsibility for the implementation and operation of the terrorism wing. In the decision making process, the Prison Service assumed a dominant role in designing the terrorism wing.

Detainee Intelligence Information Service (GRIP, henceforth Detainee Intelligence Service). In order to achieve a systematic and consistent security regime for prisoners who are considered an escape risk or public security risk, GRIP was established in 1994 as a division of the National Police Services Agency (KLPD) with the aim to improve cooperation between the National Police, the Public Prosecution Service, and the Prison Service. To this end, GRIP collects and reviews information on prisoners and advises the Prison Service on the placement and treatment of inmates. With respect to the terrorism wing, GRIP is involved in the selection and placement of prisoners in the terrorism wing and advises the Prison Service on relevant security issues in relation to these prisoners.

Bureau Selection Officials. The Bureau Selection Officials is the division of the Prison Service that is responsible for the selection, allocation, and transfer of inmates within the prison system. The selection official has discretionary powers to decide on the placement of prisoners in facilities that are appropriate to prison security and management. The placement criteria are laid down in the Regulation Selection, Placement, and Transfer of Detainees (henceforth: Regulation⁴). The selection official is advised by the detainee administration offices of the relevant prison facilities. When it comes to placement of prisoners in the terrorism wing the selection official is also advised by a focus group (see Chapter Six).

Council for the Administration of Criminal Justice and Protection of Juveniles (RSJ, henceforth the Council). The Council is an independent body established by law to monitor the implementation and execution of policy and regulation in the domain of criminal justice and juvenile protection. The Council has two main tasks. First, it has an independent advisory function and can provide requested and initiated recommendations to several Ministries, including the Ministry of Justice, on issues related to the prison system, forensic care system, and youth protection. Second, the Council serves as a Court of Appeal and reviews decisions made regarding persons serving a prison sentence. The judgments given by the Council are binding and without further possibility of appeal. In 2006, the Council was requested by the

⁴ The amendments to the Regulation were publicized on September 18, 2006. (Wijziging Regeling Selectie, Plaatsing en Overplaatsing van gedetineerden. *Staatscourant*, 181).

Ministry of Justice to advise on the proposed amendment of the Regulation, which facilitates the implementation of the terrorism wing. In addition, the Council reviewed a number of inmate appeals against transfer to the terrorism wing.

Method

In reconstructing the policy process, I was particularly interested in how the stakeholders framed the potential risks associated with the imprisonment of terrorism offenders and weighed available policy alternatives, and additionally in how their perceptions may have been influenced by the contextual conditions under which they operated. Therefore, I aimed to reconstruct the decision making dynamics and identify stakeholders' assumptions and expectations about policy outcomes, mechanisms and relevant context variables. In particular, which problems were perceived regarding the presence of terrorism offenders in the inmate population, what was seen as the cause of these problems, and how is the chosen policy supposed to contribute to solving these problems?

To answer these questions, I first conducted a review of the available policy documentation and other legal, political, and government documentation that might shed light on the agenda setting and policy preparation stages. Relevant documentation included internal memos, official letters from the Ministers of Justice and Interior, parliamentary documentation, the Regulation, which lays out the selection criteria, and the Regulation's legal justification, which elaborates on the selection procedure.

Thereafter, in-depth interviews were conducted with the parties involved in the decision making process. Between February and April 2010, interviews were conducted with representatives of the Counterterrorism Coordinator, the Intelligence Service, the Prison Service, the Bureau of Selection Officers, and the National Police. These semi-structured interviews followed Pawson and Tilley's teacher and learner cycle (Pawson & Tilley, 1997; see also Nanninga & Glebbeek, 2011), in which the evaluator presents a provisional overview of the policy's underlying assumptions (as reconstructed on the basis of documentation and initial findings), verifies with the stakeholders where it needs adjusting and then formulates a revised version. In this light, all respondents have been invited to comment on previous (Dutch) versions of (chapters of) the book.

Together, the following two chapters will outline the agenda setting and policy formulation stages of the policy process. In Chapter Two, I will first shed light on the societal and political contextual conditions under which the issue of terrorism detention emerged on the policy agenda, and then describe how the process of decision making and policy preparation unfolded. Thereafter, in Chapter Three I set out to identify the key assumptions on which the policy is based, with a particular focus on stakeholders' ideas about the policy's intended outcomes, the mechanisms by which the policy intervention is supposed to achieve these outcomes, and the conditions under which the policy should be effective.

